

| | | |
|---------------------------|---|--------------------|
| UNITED STATES OF AMERICA, |) | CASE NO. 8:08CR275 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | TENTATIVE FINDINGS |
| |) | |
| PATRICK A. CLARK, |) | |
| |) | |
| Defendant. |) | |

The Defendant objects to the 2-level enhancement in ¶ 33 under U.S.S.G. § 2K2.1(b)(3)(B) (destructive device other than one referred to in subdivision (A)). The objection will be heard at sentencing, and the burden is on the government by a preponderance of the evidence. If the parties need more than 30 minutes for the entire sentencing hearing, they must immediately contact Edward Champion and reschedule the hearing.

1. The Defendant's Objections to the Presentence Investigation Report (Filing No. 32) will be heard at sentencing;
2. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 22nd day of December, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge